

(b) CONTENTS.—In carrying out the assessment in subsection (a), the Administrator shall consider—

(1) technical uncertainty, market dynamics, and equity to both the Government and the contractor community;

(2) the use of positive fee incentives reflecting the level of cost, schedule, and performance risk accepted by the contractor;

(3) the use of negative fee incentives, including provisions providing for less than full cost recovery for work determined to be defective in materials or workmanship or which otherwise fail to conform to contract requirements;

(4) the appropriate use of rollovers;

(5) the appropriate use of retroactive award fee adjustments;

(6) the appropriate use of value engineering;

(7) the use of warranties to ensure that the end product or a specified subproduct of a contract meets the performance requirements of a contract; and

(8) the recovery of costs for the replacement or correction of articles which are defective in materials or workmanship, or which otherwise fail to conform to contract requirements.

#### SEC. 403. PROMULGATION OF REGULATIONS.

Within twelve months after the date of enactment of this Act, the Administrator, in coordination as necessary with the Office of Federal Procurement Policy and the Federal Acquisition Regulation Council, shall develop regulations for the administration of research and development contracts which propose specific changes to National Aeronautics and Space Administration Procurement Regulations and, as necessary, Federal Acquisition Regulations, in the form of mandatory and optional clauses which—

(1) establish policies and procedures for the use of performance-based contracts, incorporating positive and/or negative fee incentives to the maximum extent practicable; and

(2) establish policies and procedures—

(A) for limiting the use of clauses of the Federal Acquisition Regulations which otherwise obligate the Government to pay for the cost of correction of defects in materials and workmanship and work which otherwise fails to conform to contract requirements, and eliminating the use of such clauses where the defect or failure is within the control of the contractor; and

(B) to provide for less than full cost recovery for work determined to be defective in materials and workmanship or which otherwise fails to conform to contract requirements.

#### SEC. 404. REPORT.

Within one hundred and eighty days after the date of enactment of this Act, the Administrator shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the progress in implementing this title.

#### SEC. 405. DEFINITIONS.

For the purpose of this title—

(1) the term “performance-based contracting” means structuring all aspects of an acquisition around the purpose of the work to be performed as opposed to either the manner by which the work is to be performed or broad statements of work;

(2) the term “positive fee incentive” means that element of the potential total remuneration that a contractor may receive for contract performance over and above the allowable costs;

(3) the term “negative fee incentive” means a rebate payable to the National Aeronautics and Space Administration by a contracting party whose deliverable item or

service is not in conformance with contract requirements or otherwise deemed to be defective work; and

(4) the term “rollover” means the act of reallocating any positive fee incentives not earned by a contractor due to less than excellent performance to subsequent opportunities for award available in the contract.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

The question being put, *viva voce*, Will the House pass said bill?

The SPEAKER pro tempore, Mr. EDWARDS of California, announced that the yeas had it.

So the bill was passed.

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk request the concurrence of the Senate in said bill.

#### ¶48.10 SUBCOMMITTEE TO SIT

On motion of Ms. OAKAR, by unanimous consent, the Subcommittee on International Finance and Trade of the Committee on Banking, Finance and Urban Affairs was granted permission to sit during the 5-minute rule on Wednesday, May 6, 1992.

#### ¶48.11 PROVIDING FOR THE CONSIDERATION OF H.R. 2039

Mr. DERRICK, by direction of the Committee on Rules, reported (Rept. No. 102-512) the resolution (H. Res. 444) providing for the consideration of the bill (H.R. 2039) to authorize appropriations for the Legal Services Corporation, and for other purposes.

When said resolution and report were referred to the House Calendar and ordered printed.

#### ¶48.12 SENATE JOINT RESOLUTIONS REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 166. Joint resolution designating the week of October 4 through 10, 1992, as “National Customer Service Week”; to the Committee on Post Office and Civil Service.

#### ¶48.13 ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4184. An Act to designate the Department of Veterans Affairs Medical Center located in Northampton, Massachusetts, as the “Edward P. Boland Department of Veterans Affairs Medical Center”.

And then,

#### ¶48.14 ADJOURNMENT

On motion of Mr. DREIER, pursuant to the special order agreed to on April 30, 1992, at 4 o'clock and 33 minutes p.m., the House adjourned until 10 o'clock a.m., Wednesday, May 6, 1992.

#### ¶48.15 REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk

for printing and reference to the proper calendar, as follows:

Mr. CONYERS. Committee on Government Operations. H.R. 776. A bill to provide for improved energy efficiency; with amendments (Rep. 102-474, Pt. 5). Ordered to be printed.

Mr. ROSTENKOWSKI. Committee on Ways and Means. H.R. 776. A bill to provide for improved energy efficiency; with amendments (Rep. 102-474, Pt. 6). Ordered to be printed.

Mr. BROOKS. Committee on the Judiciary. H.R. 776. A bill to provide for improved energy efficiency; with amendments (Rep. 102-474, Pt. 7). Ordered to be printed.

Mr. MILLER of California. Committee on Interior and Insular Affairs. H.R. 776. A bill to provide for improved energy efficiency; with amendments (Rep. 102-474, Pt. 8). Ordered to be printed.

Mr. BEILENSON. Committee on Rules. House Resolution 444. Resolution providing for the consideration of H.R. 2039, a bill to authorize appropriations for the Legal Services Corporation, and for other purposes (Rep. 102-512). Referred to the House Calendar.

Mr. JONES of North Carolina. Committee on Merchant Marine and Fisheries. H.R. 776. A bill to provide for improved energy efficiency; with amendments (Rept. 102-474, Pt. 9). Ordered to be printed.

#### ¶48.16 SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

The Committee on Agriculture discharged from further consideration of H.R. 776; H.R. 776 referred to the Committee of the Whole House on the State of the Union.

#### ¶48.17 PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. TAUZIN (for himself, Mr. JONES of North Carolina, Mr. STUDDS, Mr. DAVIS, Mr. FIELDS, and Mr. JEFFERSON):

H.R. 5055. A bill to authorize appropriations for the Coast Guard for fiscal year 1993, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. ALLEN (for himself, Mr. BLILEY, Mr. MORAN, Mr. BATEMAN, Mr. PAYNE of Virginia, Mr. WOLF, Mr. SISISKY, Mr. OLIN, Mr. BOUCHER, Mr. PICKETT, Mr. HUBBARD, Mr. HORTON, Mr. APPLEGATE, Mr. JEFFERSON, Mr. SKEEN, Mr. FALEOMAVAEGA, Mr. ZIMMER, Mr. DEFazio, Mr. OBERSTAR, Mr. HARRIS, Mr. FORD of Tennessee, Mr. COYNE, and Mr. HUGHES):

H.R. 5056. A bill to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson; to the Committee on Post Office and Civil Service.

By Mr. BROWN (for himself, Mrs. MORELLA, and Mr. EVANS):

H.R. 5057. A bill to facilitate the development of an integrated, nationwide telecommunications system dedicated to instruction by guaranteeing the acquisition of a communications satellite system used solely for communications among State and local instructional institutions and agencies and instructional resource providers; to the Committee on Education and Labor.

By Mr. CLAY:

H.R. 5058. A bill to authorize appropriations for the American Folklife Center for fiscal years 1993, 1994, 1995, 1996, and 1997; to the Committee on House Administration.

H.R. 5059. A bill to extend the boundaries of the grounds of the National Gallery of Art